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REMARKS

Claims 3-4 and 9-10 have been canceled. Claims 1-2, 5-8, and 11-12 remain pending in the application. Applicants amend claims 1 and 7 for clarification. No new matter has been added.

Applicants respectfully request that the Examiner indicate acceptance of the drawings.

Claims 1-2, 5-8, and 11-12 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,614,808 to Gopalakrishna in view of U.S. Patent No. 5,940,372 to Bertin et al.; and claims 1-2, 5-8, and 11-12 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,721,334 to Ketcham in view of U.S. Patent No. 5,940,372 to Bertin et al. Applicants amend claims 1 and 7 in a good faith effort to clarify the invention as distinguished from the cited references, and respectfully traverse the rejections.

The Examiner cited col. 14, lines 44-50 of Bertin et al. as alleged suggestion of the claimed feature of excluding the path along the shortest route. The cited portion of Bertin et al. includes description of "the maximum number of hops over the path" as being one of the parameters for "non-reserved connections." The Examiner, thus, contended that the search for a "maximum number of hops over the path" inherently excludes the path along the shortest route. The cited portions of Bertin et al. only include description of setting an upper limit on a "maximum" number of hops a path may include so as to prevent a path from having too many hops. Please see, e.g., col. 19, lines 38-49 of Bertin et al. ("maximum hop count allowed"). Such portions of Bertin et al. still include description of actually selecting a path from amongst "minimum-hop" paths. Please see, e.g., col. 19, lines 50 et seq. and col. 20, lines 18-40 of Bertin et al. And the "maximum" number of hops described therein merely refers to an upper limit on

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the number of hops paths to be selected from may include. Indeed, the cited portions of Bertin et al. do not disclose or suggest "a shortest route to a same destination" as a parameter for excluding a path for selection.

Therefore, even assuming, arguendo, that it would have been obvious to one skilled in the art at the time the claimed invention was made to combine Gopalakrishna and Bertin et al., or to combine Ketcham and Bertin et al., such combinations would have, at most, suggested setting a "maximum" "upper limit" on the number of hops for paths to be chosen, but still selecting the "minimum-hop" path, as described in the cited portions of Bertin et al. And such combinations would, thus, still have failed to disclose or suggest,

"[a] network relay apparatus comprising:
a routing information gathering unit for determining the maximum transmission unit of a transmission path along a route over which packets are to be transmitted;
a combining unit for assembling a combined packet by combining packets up to a length that does not exceed the maximum transmission unit of said transmission path; and
a routing processing unit for excluding a path along a shortest route to a same destination, comparing maximum transmission units of a remaining plurality of transmission paths to the same destination, and selecting a path having the largest maximum transmission unit as a path for said combined packet from among the remaining plurality of transmission paths to the same destination," as recited in claim 1. (Emphasis added)

Accordingly, Applicants respectfully submit that claim 1, together with claims 2 and 5-6 dependent therefrom, is patentable over the cited references, separately and in combination, for at least the foregoing reasons. Claim 7 incorporates features that correspond to those of claim 1 cited above, and is, therefore, together with claims 8 and 11-12 dependent therefrom, patentable over the cited references for at least the same reasons.

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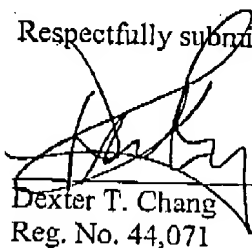
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In view of the remarks set forth above, this application is in condition for allowance which action is respectfully requested. However, if for any reason the Examiner should consider this application not to be in condition for allowance, the Examiner is respectfully requested to telephone the undersigned attorney at the number listed below prior to issuing a further Action.

Any fee due with this paper may be charged to Deposit Account No. 50-1290.

Respectfully submitted,



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